

AN ACT

relating to the continuation and functions of the Texas State Library and Archives Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (e) through (k) and (q), Section 441.001, Government Code, are amended to read as follows:

(e) A person may not be ~~[serve as]~~ a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(f) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an [An] officer, employee, or paid consultant of a Texas trade association in the field of library and information science, archives management, or records management;
or

(2) the person's spouse is [may not be a member of the commission or employee of the commission who is exempt from the

1 ~~state's position classification plan or is compensated at or above~~
2 ~~the amount prescribed by the General Appropriations Act for step 1,~~
3 ~~salary group 17, of the position classification salary schedule.~~

4 ~~[(g) A person who is the spouse of]~~ an officer, manager, or
5 paid consultant of a Texas trade association in the field of library
6 and information science, archives management, or records
7 management ~~[may not be a member of the commission and may not be an~~
8 ~~employee of the commission who is exempt from the state's position~~
9 ~~classification plan or is compensated at or above the amount~~
10 ~~prescribed by the General Appropriations Act for step 1, salary~~
11 ~~group 17, of the position classification salary schedule].~~

12 (h) In this section, "~~[For the purposes of this section, a~~
13 Texas trade association" means ~~[is]~~ a ~~[nonprofit,~~ cooperative~~]~~
14 and voluntarily joined statewide association of business or
15 professional competitors ~~[or professionals]~~ in this state designed
16 to assist its members and its industry or profession in dealing with
17 mutual business or professional problems and in promoting their
18 common interest.

19 (i) It is a ground for removal from the commission if a
20 member:

21 (1) does not have at the time of taking office
22 ~~[appointment]~~ the qualifications required by Subsection (a);

23 (2) does not maintain during service on the commission
24 the qualifications required by Subsection (a);

25 (3) is ineligible for membership under ~~[violates a~~
26 ~~prohibition established by]~~ Subsection (e) or~~]~~ (f)~~[or (g)]~~;

27 (4) cannot, because of illness or disability,

1 discharge the member's duties for a substantial part of the member's
2 term [~~for which the member is appointed~~]; or

3 (5) is absent from more than half of the regularly
4 scheduled commission meetings that the member is eligible to attend
5 during a calendar year without an excuse approved [~~unless the~~
6 ~~absence is excused~~] by majority vote of the commission.

7 (j) The validity of an action of the commission is not
8 affected by the fact that it was taken when [~~at a time~~] a ground for
9 removal of a [~~member of the~~] commission member exists [~~existed~~].

10 (k) If the director and librarian has knowledge that a
11 potential ground for removal exists, the director and librarian
12 shall notify the presiding officer of the commission of the
13 potential ground. The presiding officer shall then notify the
14 governor and the attorney general that a potential ground for
15 removal exists. If the potential ground for removal involves the
16 presiding officer, the director and librarian shall notify the next
17 highest officer of the commission, who shall then notify the
18 governor and the attorney general that a potential ground for
19 removal exists.

20 (q) The Texas State Library and Archives Commission is
21 subject to Chapter 325 (Texas Sunset Act). Unless continued in
22 existence as provided by that chapter, the commission is abolished
23 September 1, 2019 [~~2007~~].

24 SECTION 2. Section 441.0011, Government Code, is amended to
25 read as follows:

26 Sec. 441.0011. TRAINING FOR COMMISSION MEMBERS. (a) A
27 person who is appointed to and qualifies for office as a member of

1 the commission may not vote, deliberate, or be counted as a member
2 in attendance at a meeting of the commission until the person
3 completes a training program that complies with [~~Before a member of~~
4 ~~the commission may assume the member's duties and before the member~~
5 ~~may be confirmed by the senate, the member must complete at least~~
6 ~~one course of a training program that meets the requirements of]~~
7 this section.

8 (b) The [A] training program must provide the person with
9 information [~~under this section shall provide information to the~~
10 ~~member]~~ regarding:

11 (1) the [~~enabling~~] legislation that created the
12 commission;

13 (2) the programs, functions, rules, and budget of the
14 commission;

15 (3) the results of the most recent formal audit of
16 [~~programs operated by]~~ the commission;

17 (4) [~~(3)~~] the requirements of laws relating to open
18 meetings, public information, administrative procedure, and
19 conflicts of interest [~~role and functions of the commission]~~; and

20 (5) [~~(4)~~] the rules of the commission with an emphasis
21 on the rules that relate to disciplinary and investigatory
22 authority;

23 [~~(5)~~] the current budget for the commission;

24 [~~(6)~~] the results of the most recent formal audit of the
25 commission;

26 [~~(7)~~] the requirements of the:

27 [~~(A)~~] open meetings law, Chapter 551;

1 ~~[(B) open records law, Chapter 552, and~~
2 ~~[(C) administrative procedure law, Chapter 2001,~~
3 ~~[(8) the requirements of the conflict of interest laws~~
4 ~~and other laws relating to public officials, and~~
5 ~~[(9)]~~ any applicable ethics policies adopted by the
6 commission or the Texas Ethics Commission.

7 (c) A person appointed to the commission is entitled to
8 reimbursement, as provided by the General Appropriations Act, for
9 the travel expenses incurred in attending the training program
10 regardless of whether the attendance at the program occurs before
11 or after the person qualifies for office.

12 SECTION 3. Subsection (a), Section 441.006, Government
13 Code, is amended to read as follows:

14 (a) The commission shall:

- 15 (1) govern the Texas State Library;
- 16 (2) adopt policies and rules to aid and encourage the
17 development of and cooperation among all types of libraries,
18 including public, academic, special, and other types of libraries;
- 19 (3) aid those studying problems to be dealt with by
20 legislation;
- 21 (4) prepare and make available to the public and
22 appropriate state agencies information of public interest
23 describing the functions of the commission [~~and the commission~~
24 ~~procedures by which complaints are filed with and resolved by the~~
25 ~~commission~~];
- 26 (5) deposit money paid to the commission under this
27 chapter subject to Subchapter F, Chapter 404;

1 (6) give to any person contemplating the establishment
2 of a public library advice regarding matters such as maintaining a
3 public library, selecting books, cataloging, and managing a
4 library;

5 (7) conduct library institutes and encourage library
6 associations;

7 (8) take custody of, preserve, and make available for
8 public use state records and other historical resources that
9 document the history and culture of Texas as a province, colony,
10 republic, or state;

11 (9) prepare and make available to the public a
12 complete list of every state symbol and place designation,
13 including state symbols and place designations made in accordance
14 with Chapter 391; and

15 (10) aid and encourage, by adoption of policies and
16 programs, the development of effective records management and
17 preservation programs in state agencies and the local governments
18 of the state[~~, and~~

19 ~~[(11) establish by rule methods by which consumers and
20 service recipients are notified of the name, mailing address, and
21 telephone number of the commission for the purpose of directing
22 complaints to the commission].~~

23 SECTION 4. Subchapter A, Chapter 441, Government Code, is
24 amended by adding Sections 441.018 through 441.022 to read as
25 follows:

26 Sec. 441.018. COMPLAINTS. (a) The commission shall
27 maintain a system to promptly and efficiently act on complaints

1 filed with the commission. The commission shall maintain
2 information about parties to the complaint, the subject matter of
3 the complaint, a summary of the results of the review or
4 investigation of the complaint, and its disposition.

5 (b) The commission shall make information available
6 describing its procedures for complaint investigation and
7 resolution.

8 (c) The commission shall periodically notify the complaint
9 parties of the status of the complaint until final disposition.

10 Sec. 441.019. USE OF TECHNOLOGY. The commission shall
11 implement a policy requiring the commission to use appropriate
12 technological solutions to improve the commission's ability to
13 perform its functions. The policy must ensure that the public is
14 able to interact with the commission on the Internet.

15 Sec. 441.020. NEGOTIATED RULEMAKING AND ALTERNATIVE
16 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
17 implement a policy to encourage the use of:

18 (1) negotiated rulemaking procedures under Chapter
19 2008 for the adoption of commission rules; and

20 (2) appropriate alternative dispute resolution
21 procedures under Chapter 2009 to assist in the resolution of
22 internal and external disputes under the commission's
23 jurisdiction.

24 (b) The commission's procedures relating to alternative
25 dispute resolution must conform, to the extent possible, to any
26 model guidelines issued by the State Office of Administrative
27 Hearings for the use of alternative dispute resolution by state

1 agencies.

2 (c) The commission shall designate a trained person to:

3 (1) coordinate the implementation of the policy
4 adopted under Subsection (a);

5 (2) serve as a resource for any training needed to
6 implement the procedures for negotiated rulemaking or alternative
7 dispute resolution; and

8 (3) collect data concerning the effectiveness of those
9 procedures, as implemented by the commission.

10 Sec. 441.021. PUBLIC SCHOOL LIBRARY STUDY. (a) The
11 commission and the Texas Education Agency shall conduct a joint
12 study to identify the needs of public school libraries in this state
13 and determine which needs each agency is best suited to address.

14 (b) Not later than December 31, 2008, the commission and the
15 Texas Education Agency shall submit a joint written report
16 containing the findings of the study and the recommendations of the
17 commission and the education agency to the:

18 (1) governor;

19 (2) lieutenant governor;

20 (3) speaker of the house of representatives; and

21 (4) appropriate oversight committees of each house of
22 the legislature.

23 (c) This section expires June 1, 2009.

24 Sec. 441.022. COMPLIANCE WITH SUNSET RECOMMENDATIONS.

25 (a) The commission shall:

26 (1) comply with and implement the management action
27 recommendations regarding the commission adopted by the Sunset

1 Advisory Commission on January 10, 2007, as a result of its review
2 of the commission; and

3 (2) report to the Sunset Advisory Commission not later
4 than November 1, 2008, the information the Sunset Advisory
5 Commission requires regarding the commission's implementation of
6 the recommendations under Subdivision (1).

7 (b) This section expires June 1, 2009.

8 SECTION 5. Section 441.135, Government Code, is amended to
9 read as follows:

10 Sec. 441.135. GRANTS. (a) Using state, federal, or other
11 funds, the [The] commission shall establish a program of [state]
12 grants within the limitations of funds appropriated by the
13 legislature. The commission shall adopt by rule the guidelines for
14 awarding grants[~~, except that any municipal library which lends~~
15 ~~more than 20,000 items per year to nonresidents cannot be denied any~~
16 ~~grant awarded after January 1, 1995, based solely upon the~~
17 ~~provision of services to nonresidents].~~

18 (b) The program of [state] grants shall include one or more
19 of the following:

20 (1) system operation grants, to:

21 (A) provide basic system support services to
22 member libraries;

23 (B) provide coordination and enable cooperation
24 with the commission and with other libraries in a region; and

25 (C) meet commission and federal goals
26 ~~[strengthen major resource system services to member public~~
27 ~~libraries and regional library system services to member libraries,~~

1 ~~including grants to reimburse other libraries for providing~~
2 ~~specialized services to major resource systems and regional library~~
3 ~~systems];~~

4 (2) incentive grants, to encourage public libraries to
5 join together into larger units of service to meet commission and
6 federal goals [~~in order to meet criteria for major resource system~~
7 ~~membership or regional library system membership];~~

8 (3) establishment grants, to help libraries establish
9 consortia or cooperatives that will enable [public] libraries to
10 better serve their [~~that will qualify for major resource system~~
11 ~~membership or regional library system membership in]~~ communities
12 [~~without public library service];~~

13 (4) equalization grants, to help public libraries in
14 communities with relatively limited taxable resources to meet
15 commission and federal goals and qualify for [~~criteria for major~~
16 ~~resource system membership or regional]~~ library system membership;
17 [~~and]~~

18 (5) public information technology grants, to help
19 public libraries make state, local, and federal government
20 information that is accessible through the Internet [~~or electronic~~
21 ~~bulletin board systems]~~ available to the public through computers;

22 (6) competitive grants, to promote innovation by
23 public libraries and by libraries described by Section 441.1271(a)
24 and to encourage major resource systems or regional library systems
25 and libraries to meet commission and federal goals; and

26 (7) grants to aid local libraries, to provide
27 assistance to public libraries, and to help those libraries meet

1 commission and federal goals [~~computer terminals at a library~~].

2 SECTION 6. Subsection (d), Section 441.138, Government
3 Code, is amended to read as follows:

4 (d) The commission by rule shall adopt a formula for
5 distributing system operation grants [~~Twenty-five percent of~~
6 ~~system operation grants shall be apportioned equally~~] among the
7 major resource systems and regional library systems. The formula
8 must include funding for basic system support services [~~that are~~
9 ~~operating under commission-approved programs of services, budgets,~~
10 ~~and bylaws or contracts, and the remaining 75 percent of these~~
11 ~~grants shall be apportioned among those systems on a per capita~~
12 ~~basis determined by the most recent decennial census or the most~~
13 ~~recent official population estimate of the U.S. Department of~~
14 ~~Commerce, Bureau of the Census~~].

15 SECTION 7. Subchapter I, Chapter 441, Government Code, is
16 amended by adding Sections 441.1381, 441.1382, and 441.1383 to read
17 as follows:

18 Sec. 441.1381. COMPETITIVE GRANTS; SYSTEM OPERATION
19 GRANTS. (a) The commission shall design and implement a
20 competitive grant program described by Section 441.135(b)(6) and
21 shall require a recipient of a competitive grant to report to the
22 commission information relating to best practices and performance
23 outcomes.

24 (b) The commission shall continue to provide system
25 operation grants to major resource systems and regional library
26 systems. The commission may not award system operation grants
27 through a competitive process.

1 Sec. 441.1382. ADDITIONAL FUNDING. (a) The commission may
2 authorize a major resource system or regional library system to
3 receive money in addition to the system operation grant, including
4 money from:

5 (1) gifts or grants from the federal government, local
6 or regional governments, private sources, or other sources;

7 (2) contracts for services;

8 (3) cost-sharing arrangements; or

9 (4) other fees.

10 (b) The commission may authorize a major resource system or
11 regional library system to use money received under Subsection (a)
12 to initiate, expand, or enhance activities approved by the
13 commission that meet commission and federal goals.

14 (c) The commission may authorize a major resource system or
15 regional library system to retain money received under Subsection
16 (a) remaining at the end of a fiscal year for activities approved by
17 the commission that meet commission and federal goals.

18 (d) The commission by rule shall require that money received
19 under Subsection (a) must be held in a federally insured account.
20 Interest earned on money in the account shall be retained in the
21 account and is subject to the same terms and reporting requirements
22 as the corpus.

23 (e) The commission by rule may require periodic reporting
24 regarding money received under Subsection (a) and include this
25 information in the annual audit.

26 (f) Money generated through the use of state or federal
27 funds remains the property of the state. If the commission ceases

1 to contract with a major resource system or regional library
2 system, all money received under this section or described by this
3 subsection must be promptly returned to the commission for use in
4 regional library development programs.

5 Sec. 441.1383. GRANTS TO AID LOCAL LIBRARIES. The
6 commission shall design and implement a program of grants to aid
7 local libraries as described by Section 441.135(b)(7) and shall
8 require a recipient of a grant under that program to report to the
9 commission information relating to best practices and performance
10 outcomes.

11 SECTION 8. Section 441.186, Government Code, is amended by
12 adding Subsection (k) to read as follows:

13 (k) If a disagreement exists between an institution of
14 higher education, as defined by Section 61.003, Education Code, and
15 a county over custody of a record that has been in existence for
16 more than 50 years and if the commission determines that further
17 negotiations between the institution and the commission are
18 unlikely to resolve the disagreement, the record shall be
19 transferred to the custody of the commission and treated as an
20 archival state record.

21 SECTION 9. Subchapter L, Chapter 441, Government Code, is
22 amended by adding Section 441.205 to read as follows:

23 Sec. 441.205. ONLINE ACCESS TO CULTURAL RESOURCES. The
24 commission may:

25 (1) encourage Texas institutions, including
26 libraries, archives, museums, historical societies, and
27 governmental entities, to develop ways to provide Internet access

1 to digitized cultural resources; and

2 (2) provide leadership in collaborative efforts among
3 the institutions to achieve this goal.

4 SECTION 10. Section 336.104, Local Government Code, is
5 amended to read as follows:

6 Sec. 336.104. QUALIFICATIONS OF EXECUTIVE DIRECTOR OR
7 LIBRARY DIRECTOR. The board shall ensure that the executive
8 director or a subordinate library director has all necessary
9 qualifications to oversee library services in the district. [~~The
10 board shall require the executive director or a subordinate library
11 director to meet the qualification requirements for a county
12 librarian under Section 441.007, Government Code, and under any
13 rules adopted by the Texas State Library and Archives Commission
14 under that section.~~]

15 SECTION 11. The following provisions of the Government Code
16 are repealed:

- 17 (1) Section 441.007;
- 18 (2) Section 441.0071;
- 19 (3) Section 441.0072;
- 20 (4) Section 441.0073; and
- 21 (5) Section 441.0074.

22 SECTION 12. Not later than March 1, 2008, the Texas State
23 Library and Archives Commission shall adopt rules as required by
24 Subsection (d), Section 441.138, Government Code, as amended by
25 this Act.

26 SECTION 13. (a) The changes in law made by this Act in the
27 prohibitions or qualifications applying to a member of the Texas

1 State Library and Archives Commission do not affect the entitlement
2 of a member serving on the Texas State Library and Archives
3 Commission immediately before September 1, 2007, to continue to
4 serve and function as a member of the Texas State Library and
5 Archives Commission for the remainder of the member's term. Those
6 changes in law apply only to a member appointed on or after
7 September 1, 2007.

8 (b) Section 441.018, Government Code, as added by this Act,
9 relating to the investigation of a complaint filed with the Texas
10 State Library and Archives Commission, applies only to a complaint
11 filed on or after September 1, 2007. A complaint filed with the
12 commission before September 1, 2007, is governed by the law as it
13 existed immediately before that date, and the former law is
14 continued in effect for that purpose.

15 SECTION 14. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 913 passed the Senate on April 12, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 14, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 913 passed the House, with amendment, on May 8, 2007, by the following vote: Yeas 146, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor